



Kansas Department of Credit Unions

KDCU Newsletter

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MARCH 8, 2012

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Kansas Department of Credit Unions

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Credit Union Regulation in 2012

If credit unions are concerned and overwhelmed, with today's regulatory environment it is understandable. Management has had to manage in unpredictable economic conditions, absorb the cost of the corporate credit union resolution and navigate a shifting, and increasingly unknown regulatory environment. In the past two years, credit unions have experienced an increase in regulatory activity from Congress, the National Credit Union Administration (NCUA), and other federal agencies. The increasing regulation might be frustrating to credit unions, but the activity should not have been unexpected. With the volatile nature of the economic crisis from which we are now emerging, it was inevitable that pressure would increase on Congress and regulators to respond to the crisis with additional legislation and regulations. Some of the new legislation and regulations were adopted in response to poor practices or even malfeasance by some that exposed gaps in regulation.

Regulators have the unenviable task of ensuring a safe and sound financial system through vigorous supervision. In good and bad economic times regulators are tasked with determining unsafe and unsound practices and curtailing them. Against this mandate regulators must

also balance the need to provide the credit union industry with a viable operating environment.

The Kansas Department of Credit Unions (KDCU) has long strived to not "regulate to the lowest common denominator", as to some degree this is what happened pre-crisis. At this point in 2012, it is uncertain whether additional legislation and regulation is the most effective way to mitigate material risks to the credit union system. Regulations should be effective but not excessive.

Herein lies our problem. There will always be credit unions that operate soundly. There will be those that when presented with flexible statutes or regulations, will push the envelope in an unsafe and unsound manner. If you do not regulate to the lowest common denominator, if you do not carefully and specifically prescribe all activities, how does the regulator control those outliers from a regulatory perspective? There is one way: regulatory discretion.

Our challenge becomes: How do we refine our regulatory approach going forward that allows regulators the discretion to enforce broad flexible rules, while providing credit unions the comforts of both understanding expectations and protection against regulatory discretion?

One approach is robust, candid, and most importantly meaningful discussion between the regulator and the regulated. From a regulatory perspective, it makes little sense to start

from a "do not issue a regulation," as sometimes regulators have been directed by Congress. How do we take a mandate or directive and fit it into the credit union system in a way that makes sense?

The answer may be by the regulated and regulator working together to find a way to achieve a balance. In this context, the dual chartering system is invaluable. It provides different regulatory environments where various approaches can be tried and evaluated. The dual chartering system also has historically provided a check on overregulation by way of the cooperative competition between the state and federal charter.

The continued preemption of state laws lessens the differentiation between the charters, and consequently weakens the ability to provide for a regulatory environment for innovation (share drafts, field of membership, investments, etc.). A homogenization of the system is not in credit unions' or regulators' best interests. Regulatory diversity enhances safety and soundness. KDCU strives to ensure a cooperative working relationship remain strong with the share insurer NCUA. Each credit union examination is approached in this manner whether an insurance review by NCUA is included in the examination.

We need strong regulators and safe and sound credit unions working toward a common goal of a vibrant state and federal credit union system. With your help we will be successful.

New Financial Examiner

Michelle Andrew began employment on February 6. Michelle's education includes a BA degree from the College of St. Benedicts. Michelle has twelve years of financial institution experience. She transferred to the Department from the Kansas Department of Revenue. She will be in the office and examining in the Topeka area. Kansas credit unions please welcome Michelle Andrew.

Disclosure of CAMEL Ratings to the Public or Members of the Credit Union is Prohibited.

At the Joint Conference the Examiner holds with the Board of Directors and senior management following the examination the

CAMEL ratings, both component and aggregate are disclosed

The disclosure of the ratings are for use of the Board and senior management in managing the credit union and are not to be disclosed to the members or the public.

Credit Union Survey Results

With calendar year 2011 a survey questioning credit unions about the effectiveness of the annual examination was sent with the examination report. The results of the survey is now completed.

As of March 1, 2012, 78 surveys were sent with 47 (60%) returned. Credit unions scored KDCU as 'strongly agree' in nine of the eleven statements regarding the examination quality, effectiveness, and the examination report.

The statement scoring the 'lowest' (66% "Strongly Agree"): The Examination process did not unduly interfere with normal credit union operations.

Credit unions included several comments and suggestions with their returned survey forms. The results have been shared through 2011 with the examiners. We appreciate the credit unions responses.

March 31, 2012, Call Report Cycle

The next call report cycle will be here before we know it. The deadline for credit unions to have their 03/31/2012 call reports completed on Credit Union Online is Friday, April 20, 2012.

If you have not yet submitted your 2012 Roster of Credit Union Offi-

cials and Oath of Directors and Committee Members, please do so after your credit union's annual meeting.

Call reports and supporting documentation not submitted by this date may be subject to a fine of \$50 for each day the report is late per K.S.A. 17-2206(a).

Bulletins Issued

Two Bulletins were issued since the last Newsletter. Bulletins are on KDCU's web site at www.kansas.gov/kdcu/.

Suspicious Activity Reports

SARs are to be copied to the KDCU office when filed with FINCEN. Instructions for filing SARs are found in NCUA Regulation 741.8.

CREDIT UNION COUNCIL MEETS

The Credit Union Advisory Council met on March 8, 2012 by telephone conference call. Council members attending were Bob Corwin, Sue Henke, Garth Strand, John Beverlin, Gilbert Benton and Jim Holt. Guests attending were Larry Eisenhauer, Kansas Corporate Credit Union, and Haley DaVee. Kansas Credit Union Association and Dan Springer, Hutchinson Credit Union. KDCU staff present were Jenny Rezac, John P. Smith and Michael Baugh.

The Council received several reports:

- ◆ KDCU financial reports.
- ◆ Examination Survey report.
- ◆ Kansas credit union condition report.

◆ Report from the NCUA/NASCUS meeting.

◆ Changes in credit union bylaws, articles of incorporation, credit union mergers, administrative actions, number of credit unions on monthly reporting, frequency of examinations, and new branches approved.

◆ The Administrator described the progress on legislation changing Kansas credit union statutes: Senate Bills 287, 316 and 431.

Larry Eisenhauer reported on the activities of the Kansas Corporate Credit Union and the merger with Treasure State Corporate Credit Union.

Haley DaVee reported on Senate Bills 263 and 265 and current KCUA activities. The KCUA Annual Meeting will be April 19—21 in Wichita.

The next meeting of the Credit Union Advisory Council is scheduled for 10 a.m., Thursday, June 7, 2012 at the KDCU office in Topeka.

Council meetings are public meetings open to credit unions and the public. Meeting notice and agenda are on the KDCU web site at www.kansas.gov/kdcu/. Credit unions are encouraged to attend.

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